IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 1484 OF 2005
IN
SECOND APPEAL NO. 635 OF 2005

Office Notes, Office Memoranda of of Coram, appearances, Court's orders and Registrar's orders : Court's or Judge's orders

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Mr. V.Y. Sanglikar for the applicants.

Mr. Amit Sale holding for Mr.T.S. Ingale for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 31ST AUGUST, 2005

P.C.:

1. Heard learned counsel for both sides.

2. This is an application seeking indulgence to the effect that the delay caused by the applicants in depositing the amount on 19.8.2005 be condoned by modifying the order dated 23.6.2004 passed by this Court on C.A. No. 683 of 2004. Perused the record including the order dated 23.6.2004, whereunder it was incumbent upon the applicants to deposit the amount of Rs.1000/- p.m. from July, 2004 onwards till disposal of the said application and deposit was directed to be made on or before 10th of each calendar

month. Further, it was directed that in case of failure of depositing the amount as per the directions, the stay granted shall stand vacated.

On the back ground of these aspects, the default was committed by the applicant and the lower Court appears to have issued the possession warrant and hence this application.

3. After hearing both parties, it is clear that the amount which was in arrears is now already deposited. The learned counsel for the respondent submits that the facts and circumstances would show that the suit premises is not in use of the applicants at the moment. However, that aspect would be the question on merits to be decided at the time of final hearing and cannot be agitated at this juncture.

Be as it may. The possession warrant issued by the lower Court stands stayed on condition that the applicants shall pay

cost of Rs.2,000/- to the respondent within two weeks and shall continue to deposit the amount on or before 10th date of each calendar month peremptorily failing which the respondent shall be at liberty to take appropriate steps.

With these directions, the application stands disposed of with no order as to costs.

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